

PETITION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

AO 243 (Rev. 2/95)

UNITED STATES DISTRICT COURT		District for the Middle District of Pennsylvania
Name of Movant Daryl L. Parker	Prisoner No. #10866-067	Case No. 1:CR-01-248-03
Place of Confinement FCI SCHUYLKILL P.O. BOX 759 Minersville, PA. 17954-0759		J. Caldwell

UNITED STATES OF AMERICA

V. Daryl L. Parker

(name under which convicted)

MOTION

- Name and location of court which entered the judgment of conviction under attack Honorable William
W. Caldwell, U.S. District Court for the Middle District of Pennsylvania
- Date of judgment of conviction August 22, 2002
- Length of sentence Three Hundred and Forty-Nine Months (349 Months)
- Nature of offense involved (all counts) Conspiracy to Possess with Intent to Distribute
cocaine and Crack cocaine, in violation of 21 U.S.C. §§846 and 841(b)(1)(A),
Possession with Intent to Distribute crack cocaine, in violation of 21 U.S.C.
§841(a)and(b)(1)(B).
- What was your plea? (Check one)
 - (a) Not guilty ☒
 - (b) Guilty ☐
 - (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

- If you pleaded not guilty, what kind of trial did you have? (Check one)
 - (a) Jury ☒
 - (b) Judge only ☐
- Did you testify at the trial?
Yes ☐ No ☒
- Did you appeal from the judgment of conviction?
Yes ☒ No ☐

FILED
HARRISBURG

OCT 15 2007

MARY E/D'ANDREA, CLERK
Per [Signature]
DEPUTY CLERK

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9. If you did appeal, answer the following:

- (a) Name of court U.S. Court of Appeals for the Third Circuit (05-3427)
- (b) Result Conviction and Sentence Affirmed
- (c) Date of result August 29, 2006

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

Yes ☐ No ☐

(6) Date of result _____

(2) Second petition, etc. Yes ☐ No ☐

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(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: The conviction was obtained in violation of Petitioner's
Sixth Amend right to the effective assistance of counsel.

Supporting FACTS (state *briefly* without citing cases or law)

Counsel failed to interview and/or investigate potential witnesses for the
defense whose names Petitioner provided to counsel. Due to counsel's failure,
Petitioner was thus unable to present a defense to the Government's charge
that Petitioner with conspired (with others) to distribute a quantity of
cocaine and crack cocaine.

B. Ground two: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

C. Ground three: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

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D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: Claims of ineffective assistance of

counsel are properly raised on a 28 U.S.C. §2255 as opposed to
a direct appeal.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing William A. Fetterhoff, Esq. 228 Pine Street,
P.O. BOX 1161, Harrisburg, PA. 17108-1161

(b) At arraignment and plea same

(c) At trial same

(d) At sentencing same

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(c) On appeal same

(f) In any post-conviction proceeding

(g) On appeal from any adverse ruling in a post-conviction proceeding

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, movant prays that the Court grant petitioner relief to which he or she may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

October 10th, 2007
(Date)

Rayl A. Parker #10886-067
Signature of Movant

Mr. Ralph L. Porter
#10866-067
F.C.M. Schuykill
P.O. Box 759

Morrisville, Pa. 17954

Honorable Judge William W. Caldwell
Att. Clerk of Court
U.S. District Court
228 Walnut Street
P.O. Box 983
HARRISBURG, PA. 17108

